

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

JOHN SALVATI, )  
Plaintiff, )  
v. )  
MICHAEL J. ASTRUE, ) No.: 3:08-CV-494  
Commissioner of Social Security, ) (VARLAN/SHIRLEY)  
Defendant. )

## **ORDER**

This Social Security appeal is before the Court on the Report and Recommendation filed by United States Magistrate Judge C. Clifford Shirley on January 13, 2010 [Doc. 20]. There have been no timely objections to the Report and Recommendation, and enough time has passed since the filing of the Report and Recommendation to treat any objections as having been waived. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Judge Shirley found that defendant Commissioner's motion for summary judgment [Doc. 18] should be denied, and that plaintiff's motion for summary judgment [Doc. 14] should be granted for purposes of remanding the case.

The Court has carefully reviewed this matter, including the underlying pleadings. The Court is in agreement with Judge Shirley's recommendation, which the Court adopts and incorporates into its ruling. Accordingly, the Court **ACCEPTS IN WHOLE** the Report and Recommendation [Doc. 20]. Additionally, it is **ORDERED** that the Commissioner's motion

for summary judgment [Doc. 18] be **DENIED**; that plaintiff's motion for summary judgment [Doc. 14] be **GRANTED** only for purposes of remanding the case; that the Commissioner's decision in this case denying plaintiff's application for benefits under the Social Security Act be **REVERSED**; and that this case be **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g) for a new hearing consistent with this opinion and Judge Shirley's Report and Recommendation.

IT IS SO ORDERED.

s/ Thomas A. Varlan  
UNITED STATES DISTRICT JUDGE